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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,431	06/28/2001	Paul John O'Keeffe	01-389	1161

20306 7590 03/12/2003

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Keep in case

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**Office Action Summary**

Application No.

09/806,431

Applicant(s)

O'KEEFFE, PAUL JOHN

Examiner

Ula C Ruddock

Art Unit

1771

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 6/2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,6,7,8</u> . | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file, for PCT/AU00/00909. However, acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 8/2/1999 and 5/3/2000. It is noted, however, that applicant has not filed a certified copy of either of these applications as required by 35 U.S.C. 119(b).

### *Abstract*

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1, 2, 4-6, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0032793 (EP '793). EP '793 discloses a cleansing article made of a web coated with a cleansing agent (page 5, ln 23-27) comprising silicone oils and waxes (page 14, ln 31) and mineral oil (page

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15, ln 10). The cleansing article provides a mitten-like article (claim 10). It is the Examiner's position that the cleansing article of EP '793 would be compatible with a protective glove because it uses the same chemical composition required in the present invention. Furthermore, with regard to claim 11, it is inherent that the mitten of EP '793 contacts the hand and/or forearms.

5. Claims 1, 2, and 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Hahn et al. (US 5,804,203). Hahn et al. disclose topical formulations that inhibit skin irritation (abstract). These products can be in the form of pre-moistened wipes and washcloths (col 1, ln 32). Typical modes of delivery can be by using a cloth, wipe, and a washcloth to the skin (col 17, ln 44-51). The formulations comprise vitamin E (col 19, ln 29), cholesterol (col 19, ln 41), and jojoba oil (col 35, ln 56). It is the Examiner's position that the topical formulations of Hahn et al. would be compatible with a protective glove because it uses the same chemical composition required in the present invention.

6. Claims 1, 2, 4-8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Sine et al. (US 6,183,766). Sine et al. disclose compositions for sanitizing and moisturizing skin surfaces (abstract). The conditioning agents comprise cholesterol (col 3, ln 15), jojoba oil (col 3, ln 57), and vitamin E (col 15, ln 40). The compositions can be incorporated in the form of treated wipe (col 16, ln 35), preferably in the form of hydroentangled, i.e. nonwoven, web substrates (col 16, ln 52). It is the Examiner's position that the topical formulations of Sine et al. would be compatible with a protective glove because it uses the same chemical composition required in the present invention.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sine et al. (US 6,183,766), as set forth above, in view of Weinstein (US 5,961,500). Sine et al. disclose the claimed invention except for the teaching that the article is sterile and that the substrate is impregnated with up to 4 times its weight in moisturizing cream base.

Weinstein discloses a disposable wipe coated with a dermatological fluid (abstract). The prewetted wipe is also sterile (col 1, ln 63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Sine's wipe sterile, as shown by Weinstein, motivated by the desire to create a wipe that has been maintained in a sterile environment.

With regard to claim 9, it should be noted that optimizing the amount of moisturizer is a result effective variable. For example, the greater the amount of moisturizer, the greater the moisturizing effect of the wipe. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a substrate that is impregnated with up to 4 times its weight in moisturizing cream base, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the

moisturizer amount motivated by the desire to obtain a wipe with increased moisturizing capabilities.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0032793 (EP '793), as set forth above. (EP '793) discloses the claimed invention except for the teaching that the wipe is applied immediately after washing and hand drying. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have washed and dried the hands before using the article, since it is well known that washing and drying hands enhance the moisturizing effect of creams and lotions.

#### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 703-305-0066. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

UCR *UCR*  
March 7, 2003

*Ula Ruddock*